



Department of Public Service

Three Empire State Plaza, Albany, NY 12223-1350
www.dps.ny.gov

Public Service Commission

Rory M. Christian
Chair and
Chief Executive Officer

Diane X. Burman
James S. Alesi
Tracey A. Edwards
John B. Howard
David J. Valesky
John B. Maggiore
Commissioners

May 31, 2023

Honorable Kathy Hochul
Governor of New York State
New York State Capitol Building
Albany, NY 12224

Re: Case 23-M-0229 – In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, Proposed Amendment to Part 11 to Implement Public Service Law Section 53-a, the Prohibition of Utilities Engaging in Detrimental Conduct Towards a Residential Customer

Dear Governor Hochul:

Enclosed is a copy of the Notice of Proposed Rulemaking concerning a proposal by the New York State Public Service Commission (Commission) to amend 16 NYCRR Part 11 (Home Energy Fair Practices Act). Also enclosed are the proposed rule text, regulatory impact statement, regulatory flexibility analysis, rural area flexibility analysis, and job impact exemption.

These documents are transmitted to you in accordance with State Administrative Procedure Act §202(6-a) and Executive Law §101-a.

The statutory authority for the proposed regulation is Public Service Law §53-a. A public hearing is not scheduled. Public comments will be received for a minimum of 60 days after publication of a summary of the proposed regulation in the State Register. The public may submit comments to the Honorable Michelle L. Phillips, Secretary to the Commission, at 3 Empire State Plaza, Albany, New York 12223-1350, to secretary@dps.ny.gov or to <http://www.dps.ny.gov> under Case 23-M-0229.

Very truly yours,

/s/

Alicia M. Sullivan
Consumer Advocacy Counsel

Enc.



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May 31, 2023

The Honorable Andrea Stewart- Cousins
President Pro Tem
New York State Senate
Legislative Office Building, Room 907
Albany, New York 12247

Re: Case 23-M-0229 – In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, Proposed Amendment to Part 11 to Implement Public Service Law Section 53-a, the Prohibition of Utilities Engaging in Detrimental Conduct Towards a Residential Customer

Dear Senator Stewart- Cousins:

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May 31, 2023

The Honorable Carl E. Heastie
Speaker of the Assembly
Legislative Office Building, Room 932
Albany, New York 12247

Re: Case 23-M-0229 – In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, Proposed Amendment to Part 11 to Implement Public Service Law Section 53-a, the Prohibition of Utilities Engaging in Detrimental Conduct Towards a Residential Customer

Dear Speaker Heastie:

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May 31, 2023

The Honorable Simcha Felder
Chair, Administrative Regulations Review Commission
Legislative Office Building, Room 504
Albany, New York 12247

Re: Case 23-M-0229 – In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, Proposed Amendment to Part 11 to Implement Public Service Law Section 53-a, the Prohibition of Utilities Engaging in Detrimental Conduct Towards a Residential Customer

Dear Chairperson Felder:

Enclosed is a copy of the Notice of Proposed Rulemaking concerning a proposal by the New York State Public Service Commission (Commission) to amend 16 NYCRR Part 11 (Home Energy Fair Practices Act). Also enclosed are the proposed rule text, regulatory impact statement, regulatory flexibility analysis, rural area flexibility analysis, and job impact exemption.

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May 31, 2023

The Honorable Dan Quart
Chair, Administrative Regulations Review Commission
Legislative Office Building, Room 741
Albany, NY 12248

Re: Case 23-M-0229 – In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, Proposed Amendment to Part 11 to Implement Public Service Law Section 53-a, the Prohibition of Utilities Engaging in Detrimental Conduct Towards a Residential Customer

Dear Chairperson Quart:

Enclosed is a copy of the Notice of Proposed Rulemaking concerning a proposal by the New York State Public Service Commission (Commission) to amend 16 NYCRR Part 11 (Home Energy Fair Practices Act). Also enclosed are the proposed rule text, regulatory impact statement, regulatory flexibility analysis, rural area flexibility analysis, and job impact exemption.

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Very truly yours,

/s/

Alicia M. Sullivan
Consumer Advocacy Counsel

Enc.

Notice of Proposed Rule Making

Public Service Commission
(SUBMITTING AGENCY)

- ☒ Approval has been granted by Executive Chamber to propose this rule making.
☐ This rule making does not require Executive Chamber approval.

NOTE: Typing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms will be cause for rejection of this notice.

1. A. Proposed action:		
Amendment of	Part 11	Title <u>16</u> NYCRR
		Title _____ NYCRR
		Title _____ NYCRR
		Title _____ NYCRR
		Title _____ NYCRR
		Title _____ NYCRR

- B. ☐ This is a consensus rule making. A statement is attached setting forth the agency's determination that no person is likely to object to the rule as written [SAPA §202(1)(b)(i)].
- C. ☐ This rule was previously proposed as a consensus rule making under I.D. No. _____. Attached is a brief description of the objection that caused/is causing the prior notice to be withdrawn [SAPA §202(1)(e)].
- D. ☐ This rule is proposed pursuant to [SAPA §207(3)], 5-Year Review of Existing Rules (see also item 16).

2. Statutory authority under which the rule is proposed:

Public Service Law Section(s): 53-a.

3. Subject of the rule:

Prohibition of utilities engaging in detrimental conduct towards a residential customer

4. Purpose of the rule:

To provide the utilities the implementation and enforcement rules designed to prevent harassment of residential customers

5. Public hearings (check box and complete as applicable):

- ☒ A public hearing is not scheduled. (SKIP TO ITEM 8)
- ☐ A public hearing is required by law and is scheduled below. (Note: first hearing date must be at least 60 days after publication of this notice unless a different time is specified in statute.)
- ☐ A public hearing is not required by law, but is scheduled below.

Time:	Date:	Location:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. *Interpreter services* (check only if a public hearing is scheduled):

- ☐ Interpreter services will be made available to hearing impaired persons, at no charge, upon written request to the agency contact designated in this notice.

7. *Accessibility* (check appropriate box only if a public hearing is scheduled):

- ☐ All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.
- ☐ Attached is a list of public hearing locations that are **not** reasonably accessible to persons with a mobility impairment. An explanation is submitted regarding diligent efforts made to provide accessible hearing sites.

8. *Terms of rule* (SELECT ONE SECTION):

- A. ☒ The full text of the rule is attached because it does not exceed 2,000 words.
- B. ☐ A summary of the rule is attached because the full text of the rule exceeds 2,000 words.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

- C. ☐ Pursuant to SAPA §202(7)(b), the agency elects to print a description of the subject, purpose and substance of the rule as defined in SAPA §102(2)(a)(ii) [Rate Making]. Web posting of full text of such rule is not required [SAPA §202(1)(a)].

9. *The text of the rule and any required statements and analyses may be obtained from:*

Agency contact John Pitucci

Agency Name Public Service Commission

Office address 3 Empire State Plaza
Albany, New York 12223-1350

Telephone (518) 486-2655 E-mail: John.Pitucci@dps.ny.gov

10. *Submit data, views or arguments to* (complete only if different than previously named agency contact):

Agency contact Michelle L. Phillips, Secretary

Agency name Public Service Commission

Office address 3 Empire State Plaza
Albany, New York 12223-1350

Telephone (518) 474-6530 E-mail: secretary@dps.ny.gov

11. *Public comment will be received until:*

- ☒ 60 days after publication of this notice (MINIMUM public comment period).
- ☐ 5 days after the last scheduled public hearing required by statute (MINIMUM, with required hearing).
- ☐ Other: (specify) _____.

12. A prior emergency rule making for this action was previously published in the _____ issue of the *Register*, I.D. No. _____.

13. *Expiration date* (check only if applicable):

☐ This proposal will not expire in 365 days because it is for a "rate making" as defined in SAPA §102 (2)(a)(ii).

14. *Additional matter required by statute:*

☐ Yes (include below material required by statute).

☒ No additional material required by statute.

15. *Regulatory Agenda* (See SAPA §202-d[1]):

☐ This rule was a Regulatory Agenda item for this agency in the following issue of the *State Register*:

☐ This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the *Register*.

☒ Not applicable.

16. **Review of Existing Rules** (ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

This rule is proposed pursuant to SAPA §207 (item 1D applies) (check applicable boxes):

☐ Attached is a statement setting forth a reasoned justification for modification of the rule. Where appropriate, include a discussion of the degree to which changes in technology, economic conditions or other factors in the area affected by the rule necessitate changes in the rule.

☐ Attached is an assessment of public comments received by the agency in response to its publication of a list of rules to be reviewed.

☐ An assessment of public comments is not attached because no comments were received.

☒ Not applicable.

17. **Regulatory Impact Statement (RIS)**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS, EXCLUDING SUMMARIES OF STUDIES, REPORTS OR ANALYSES [Needs and Benefits]):

A. The attached RIS contains:

☒ The full text of the RIS.

☐ A summary of the RIS.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

☐ A consolidated RIS, because this rule is one of a series of closely related and simultaneously proposed rules or is virtually identical to rules proposed during the same year.

B. A RIS is **not attached**, because this rule is:

☐ subject to a consolidated RIS printed in the *Register* under I.D. No.: _____; issue date: _____.

☐ exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].

☐ exempt, as defined in SAPA §102(11) [Consensus Rule Making].

C. ☐ A statement is attached claiming exemption pursuant to SAPA § 202-a (technical amendment).

18. Regulatory Flexibility Analysis (RFA) for small businesses and local governments

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS):

A. The attached RFA contains:

☒ The full text of the RFA.☐ A summary of the RFA.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

☐ A consolidated RFA, because this rule is one of a series of closely related rules.

B. ☐ A statement is attached explaining why a RFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments and the reason(s) upon which the finding was made, including any measures used to determine that the rule will not impose such adverse economic impacts or compliance requirements.

C. A RFA is not attached, because this rule:

☐ is subject to a consolidated RFA printed in the *Register* under I.D. No.: _____; issue date: _____.☐ is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].☐ is exempt, as defined in SAPA §102(11) [Consensus Rule Making].**19. Rural Area Flexibility Analysis (RAFA)**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS):

A. The attached RAFA contains:

☒ The full text of the RAFA.☐ A summary of the RAFA.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

☐ A consolidated RAFA, because this rule is one of a series of closely related rules.

B. ☐ A statement is attached explaining why a RAFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas and the reason(s) upon which the finding was made, including what measures were used to determine that the rule will not impose such adverse impact or compliance requirements.

C. A RAFA is not attached, because this rule:

☐ is subject to a consolidated RAFA printed in the *Register* under I.D. No.: _____; issue date: _____.☐ is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].☐ is exempt, as defined in SAPA §102(11) [Consensus Rule Making].

20. Job Impact Statement (JIS)

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS):

A. The attached JIS contains:

☐ The full text of the JIS.☐ A summary of the JIS.☐ Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:☐ A consolidated JIS, because this rule is one of a series of closely related rules.B. ☒ A statement is attached explaining why a JIS is not required. This statement is in scanner format and explains the agency's finding that the rule will not have a substantial adverse impact on jobs and employment opportunities (as apparent from its nature and purpose) and explains the agency's finding that the rule will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.☐ A JIS/Request for Assistance [SAPA §201-a(2)(c)] is attached.

C. A JIS is not attached, because this rule:

☐ is subject to a consolidated JIS printed in the *Register* under I.D. No.: _____
issue date: _____☐ is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].☐ is proposed by the State Comptroller or Attorney General.**AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice.)**

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

Name Alicia M. Sullivan Signature _____Address 3 Empire State Plaza, Albany, New York 12223-1350Telephone (518) 473-1136 E-Mail alicia.sullivan@dps.ny.govDate 05/30/2023**Please read before submitting this notice:**

1. Except for this form itself, all text must be typed in the prescribed format as described in the Department of State's Register procedures manual, *Rule Making in New York*.
2. Rule making notices, with any necessary attachments (in MS Word), should be e-filed via the Department of State website.

FULL TEXT OF THE RULE FOR 23-M-0229SP1

CHAPTER 1 RULES OF PROCEDURE
SUBCHAPTER B, Procedures and Requirements Concerning Consumer
Protections

PART 11
HOME ENERGY FAIR PRACTICES ACT AND ENERGY CONSUMER PROTECTION
ACT - RULES

NEW §11.33 Prohibition of utilities engaging in detrimental
conduct towards a residential customer

16 NYCRR §11.33 Prohibition of utilities engaging in
detrimental conduct towards a residential customer

(a) Definitions:

(1) Consumer reporting agency means any person which, for
monetary fees, dues, or on a cooperative nonprofit basis,
regularly engages in whole or in part in the practice of
assembling or evaluating consumer credit information or
other information on consumers for the purpose of
furnishing consumer reports to third parties, and which
uses any means or facility of intrastate or interstate
commerce for the purpose of preparing or
furnishing consumer reports.

(2) Deferred payment agreement or payment agreement (also
referred to as the agreement in this section) means a
written agreement for the payment of outstanding charges
over a specific period of time, signed by both the utility
and the applicant or customer and compliant with Article 2
of the Public Service Law and section 11.10 of this Part.

(3) Detrimental conduct means any conduct by a utility,
municipality, or ESCO, the natural consequence of which is
to harass, oppress, or abuse a residential applicant or
customer in connection with the establishment of gas and/or
electric service, handling of a residential customer
complaint, the offering or negotiating of a deferred
payment agreement, the collection of an unpaid balance, or
any other obligation owed by such customer.

(4) Residential customer complaint means a complaint, which
may involve bills for service by regulated entities,
deposit requests, negotiations for deferred payment
agreements, service problems or other matters relating to
utility service, filed with:

(i) the utility, municipality, or energy service company (ESCO) by a residential customer relating to their electric, gas, steam, telephone, or water service, or;

(ii) the department or commission when the residential customer believes they have not obtained a satisfactory resolution of a dispute with a utility, municipality, or ESCO regulated by the commission.

(5) *Unpaid balance or any other obligation owed* means the charges owed by a residential applicant or customer that are due and owing to their utility, municipality, or ESCO for utility service to such applicant or customer. The utility, municipality, or ESCO may assess late payment charges, taxes, and state mandated assessments to a residential customer's bill as otherwise provided by law or regulation.

(b) Harass, oppress, or abuse.

(1) *harass, oppress, or abuse* shall mean and include, but not be limited to, when the utility, municipality or ESCO knowingly fails or neglects to comply with the provisions of Article 2 of the Public Service Law. The following conduct shall be deemed a violation of this section:

(i) The use or threat of use of violence or other criminal means to harm physical persons, their reputation, or the property of any person.

(ii) The use of obscene or profane language or language, the natural consequence of which is to intimidate or otherwise insult or mistreat the listener or reader.

(iii) The publication of a list of customers who allegedly refuse to pay debts, except to a consumer reporting agency.

(iv) The advertisement for sale of any debt to coerce payment of the debt.

(v) Causing a telephone to ring or engaging any person in telephone conversation or other means of electronic communication repeatedly or continuously, the natural consequence of which is to annoy, abuse, or harass any person at the called number or point of electronic communication.

(vi) The placement of telephone calls or other means of electronic communication without meaningful disclosure of

the purpose of the call or electronic communication and/or the identity of the utility, municipality, or ESCO.

(vii) The use of false, deceptive, or misleading representation in connection with the collection of a debt.

(2) the following conduct shall not be deemed harassment, oppression, or abuse by a utility, municipality or ESCO:

(i) Communications by an employee or agent of a utility, municipality, or ESCO in the regular course of business when collecting or attempting to collect any debt owed or due to the utility, municipality, or ESCO.

(ii) Communication to a residential customer upon their express consent to receive autodialed and prerecorded or automated calls or other means of electronic communication related to utility service. The customer consent to contact includes communications related to utility service and is limited to communications that warn or inform the customer about planned or unplanned service outages, updates about service outages or restoration, confirmation of service restoration or information about lack of service, notification of meter work or other field work, notification of possible eligibility for subsidized or lower cost services, or that relate to servicing and billing the customer's account.

(iii) Communications by an employee or agent of a utility, municipality, or ESCO when negotiating the terms and conditions of a deferred payment agreement consistent with Article 2 of the Public Service Law and section 11.10 of this Part.

(iv) Communications by an employee or agent of a utility, municipality, or ESCO when providing advice, information, or the position of that entity to a residential applicant or customer in relation to a complaint or the establishment of gas and/or electric service.

(c) No utility corporation, municipality, or ESCO subject to the department's uniform business practices and sections three hundred forty-nine and three hundred forty-nine-d of the general business law shall engage in any conduct the natural consequence of which is to harass, oppress, or abuse any residential applicant or customer in connection with the establishment of gas and/or electric service, handling of a residential customer complaint, the offering and/or negotiating of a deferred payment agreement, or the collection of an unpaid balance or any other obligation owed by such customer.

(d) Investigation of complaints under these provisions shall be conducted through the Consumer Complaint Procedures set forth in Part 12 of this Title. The utility, municipality, or ESCO shall maintain records related to any complaint received pursuant to this section for a minimum of six years from the date of the complaint.

(e) Any utility, municipality, or ESCO found in violation of this section shall also be subject to fines, penalties, and enforcement pursuant to Public Service Law sections twenty-four, twenty-five, twenty-five-a, and twenty-six.

REGULATORY IMPACT STATEMENT FOR 23-M-0229SP1

16 NYCRR Part 11

Statutory Authority:

Public Service Law (PSL) Articles 2 and 4 assign to the Public Service Commission (PSC) jurisdiction, supervision, powers, and duties over residential gas, electric, steam corporations, and municipal electric and/or gas utilities in the State. The Energy Service Companies (ESCOs) are also subject to Commission jurisdiction under Public Service Law (PSL) Article 2. On November 8, 2021, PSL Section 53-a was amended by Chapter 590 of the Laws of 2021 to prohibit utility corporations, municipal utilities, and ESCOs subject to PSC jurisdiction (service providers) from engaging in any conduct, the natural consequence of which is to harass, oppress, or abuse any residential customer in connection with the handling of a complaint, the offering of a deferred payment agreement or the collection of an unpaid bill. The amendment to the PSL also provides that all service providers in violation of the statute shall be subject to fines, penalties and enforcement pursuant to PSL Sections 24, 25, 25-a and 26. Further, the amendment directed the Commission to promulgate rules and regulations necessary to implement and enforce the provisions of the statute.

Legislative Objectives:

The objectives of both the statute and the proposed regulations are to clarify and strengthen the rights of residential customers under the Home Energy Fair Practices Act (HEFPA). The proposed regulations are drafted to ensure the fair treatment of all residential customers. The proposed amendment to 16 NYCRR Part 11 meets these objectives because the amendment aligns with the required provisions of the statute and provide implementation and enforcement mechanisms.

Needs and Benefits:

The proposed regulatory changes are necessary to align the Commission's consumer protection regulations with the enacted state statute. The Commission implements its residential consumer protections for electricity, gas, steam, and ESCO customers through 16 NYCRR Part 11. The proposed rules would comply with the requirements of PSL Section 53-a regarding the prohibitions on service providers from

harassing, oppressing, or abusing residential customers in the context of filing a complaint, negotiating a deferred payment agreement, or collection of an unpaid bill. The proposed rules would also ensure that applicants for electric and gas service are provided the same protections as existing customers, to comply with PSL Section 65(3). The investigation of any failure to comply with the statute and regulatory amendments will be adjudicated according to the Commission's consumer complaint process contained in 16 NYCRR Part 12. Further, penalties and enforcement of any finding of a failure to comply with the statute and regulatory amendments will comply with the PSL Sections 24, 25, 25-a and 26.

Therefore, the Commission proposes these consumer protection rules in furtherance of its service provider oversight responsibilities under the PSL.

COSTS: Costs to Private Regulated Parties:

Any prudently incurred cost associated with the proposed rules may be potentially recovered by a utility corporation or municipal utility through a rate proceeding.

Costs to Local Government:

There are no anticipated added costs to local governments. A municipality that provides electricity and/or gas service to residential customers may seek to recover prudently incurred costs associated with the proposed rules through a rate proceeding.

Costs to the Public Service Commission or the Department of Public Service:

There are no anticipated added costs to the Commission or Department.

Costs to Other State Agencies:

There are no known or identifiable costs to other State agencies or offices of State government.

Local Government Mandates:

A municipality that provides electricity and/or gas service to residential customers will be required to comply with the regulations, which are required by PSL Sections 53-a.

Paperwork:

All service providers subject to this rule will be required to implement business practices to ensure that the prohibitions against harassment, oppression and abuse of residential customers are in place. All service providers will also be required to, at a minimum, update relevant public facing customer service materials and provide training to all staff to accomplish the purpose of the statute.

Duplication:

The purpose of the new regulations is to align them with a recently enacted state statute. There are no relevant state regulations that duplicate, overlap, or conflict with the proposed revisions.

Alternatives:

There is a “no action alternative,” but such an alternative is not permissible as it would result in the Commission being out of compliance with a state statute.

Federal Standards:

There are no similar standards of the Federal government applicable to the relevant gas and electric utility service providers. However, the definitions in the proposed regulations to HEFPA are modeled after the Federal Trade Commission’s “Fair Debt Collection Practices Act,” as provided in 15 USC §1692d.

Compliance Schedule:

The proposed revisions would be effective upon publication of a Notice of Adoption in the New York State Register.

Contact Person:

Alicia M. Sullivan
New York State Department of Public Service
Office of Consumer Services
3 Empire State Plaza
Albany, New York 12223
(518) 473-1136
alicia.sullivan@dps.ny.gov

**REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES
AND LOCAL GOVERNMENTS FOR 23-M-0229SP1**

1. Effect of rule: The proposed rules protect residential customers' rights when negotiating a billing dispute or a deferred payment agreement or filing a complaint against a utility corporation, municipal utility or an Energy Service Company (ESCO) (service providers). There are 38 municipal gas and electric utilities regulated by the Public Service Commission (PSC). The proposed rules prohibit service providers from engaging in any detrimental conduct toward a residential customer, which is defined as harassment, oppression or abuse. The proposed rules provide the Department of Public Service (Department) and the PSC investigative and enforcement mechanisms for any violations.
2. Compliance requirements: There are no additional burdens on service providers resulting from the proposed rules.
3. Professional services: There are no professional services that small businesses or local governments are likely to need to comply with the rules.
4. Compliance costs: There are no expected costs to service providers to comply with the proposed rules. To the extent that a service provider incurs costs to comply with the proposed rules, those service providers subject to PSC rate setting jurisdiction may seek to recover just and reasonable costs through a rate proceeding.
5. Economic and technological feasibility: The proposed rules do not require any specialized technology for compliance.
6. Minimizing adverse impact: No known adverse impacts exist.

7. Small business and local government participation: Small businesses are not affected by the proposed rules. Local governments may only be affected by the rule to the extent that there are 38 municipalities that provide regulated electricity and/or natural gas service to residential customers. The DPS intends to comply with State Administrative Procedures Act (SAPA) section 202-b(6) by posting the draft proposed rule on its website and conducting outreach through direct email notification to certain local government organizations that the proposed draft rule has been posted.

8. Cure Period: No cure period is included in the proposed rules. Department of Public Service's Office of Consumer Service staff will investigate complaints from residential customers about a service provider's failure to comply with the proposed rules. If the Department's investigation finds that a service provider has violated the rules, that service provider shall be subject to penalties and an enforcement proceeding pursuant to Public Service Law sections twenty-four, twenty-five, twenty-five-a and twenty six.

RURAL AREA FLEXIBILITY ANALYSIS FOR 23-M-0229SP1

1. Types and estimated numbers of rural areas: The rules apply to the entire State of New York (State), including all rural areas of the State.
2. Reporting, recordkeeping and other compliance requirements, and professional services: The rules apply to utility corporations, municipal utilities, and Energy Service Companies that provide electricity and/or natural gas to residential customers and that are subject to Public Service Commission (PSC) jurisdiction (service providers). The rules neither require nor specify any greater reporting, record keeping or compliance requirements in rural areas than in any other area of the State.
3. Costs: The rules apply only to service providers and will create no added costs specific or germane to rural areas.
4. Minimizing adverse impact: No adverse impacts are anticipated from the rules.
5. Rural area participation: Service providers that serve residential customers who reside in rural areas and rural community leaders will be notified of the proposed rulemaking and invited to participate in the stakeholder process. Furthermore, the Public Service Commission (PSC) will accept public comments in response to the Notice of Proposed Rulemaking and will summarize and respond to the comments that are received.
6. Initial review of the rule, pursuant to State Administrative Procedure Act Section 207: Not applicable.

JOB IMPACT EXEMPTION FOR 23-M-0229SP1

The Department of Public Service projects that there will be no adverse impact on jobs or employment opportunities in the State of New York (State) because of this proposed rule change. The proposed amendment to 16 NYCRR Part 11 is necessary for the implementation of Public Service Law Section 53-a, as amended by Chapter 590 of the Laws of 2021. Every utility corporation, municipal utility, and Energy Service Company that provides residential electricity and/or natural gas and is subject to the jurisdiction of the Public Service Commission shall be required to follow these rules, which prohibit harassment, oppression or abuse of any residential customer.

No further steps were needed to ascertain these facts, and none were taken. As apparent from the nature and purpose of this proposed rule change, a full Job Impact Statement is not required and therefore one has not been prepared.